



# 3rd PARTY/GRANDPARENT VISITATION

A GUIDE TO 3RD PARTY AND GRANDPARENT VISITATION IN THE FAMILY COURT

## FAMILY COURT OF THE STATE OF DELAWARE

<https://courts.delaware.gov/family>

### What will a visitation order provide?

A visitation order will provide the parties with a schedule of contact with a child. A visitation order will **not** address custody or guardianship of a child.

### Who may file a Petition for 3rd party/grandparent visitation?

Any adult person who is not a parent of the child with whom they seek visitation may file if they:

- have a substantial and positive prior relationship with the child **OR**
  - are an aunt, uncle, grandparent or adult sibling of the child(ren) **OR**
  - A guardian ad litem on behalf of the child if:
    - The child is seeking visitation with a minor sibling or half sibling **OR**
    - The adult person with whom visitation is sought consents to visitation
- AND**
- ♦ Has a substantial and positive prior relationship with the child **OR**
  - ♦ Is the grandparent, aunt, uncle or adult sibling of the child

### Can I or my relatives file for visitation with my child if my parental rights have been terminated?

Only if more than 3 years have passed since rights were terminated and the child has not been adopted

**OR**

Only if the adoptive parents have previously entered into a written notarized agreement or court-approved agreement for continued visitation

### What if I am a parent seeking visitation with my child?

A parent may file a Petition for Parental Visitation. In cases of parental visitation, the Court applies a different standard when making its decision. Please see the Parental Visitation Instruction Packet for more information.

### What will a visitation order provide?

A visitation order will provide the parties with a schedule of contact with a

child. A visitation order will not address custody or guardianship of a child.

### **What if the other party and I agree on a visitation schedule?**

You may file a Consent Order along with your Petition for 3rd Party/Grandparent Visitation. A Judicial Officer will review your consent order. If the Consent Order is signed by the Judicial Officer, it becomes a Court Order, which must be followed.

### **Will I attend mediation?**

After all of the Respondents have been served with the Petition for 3rd Party/Grandparent Visitation and each of the Respondents has had an opportunity to file an Answer, the Court normally will schedule your visitation matter for Mediation. ALL PARTIES are required to attend. Mediation will not be scheduled if there is an active no contact order between the parties or a finding of domestic violence, or if one of the parties is a sex offender as defined by Delaware law.

### **How does the Court decide if I will get visitation?**

The Court will determine whether to grant visitation based on the following factors:

- 1) Whether visitation is in the child's best interests **AND**
- 2) One of the following is true as to each parent:
  - The parent consents to the visitation **OR**
  - The child is dependent, neglected, or abused in the parent's care **OR**
  - The parent is deceased **OR**
  - The visitation will not substantially interfere with the parent/child relationship and the parent's objection is unreasonable (this factor only applies if a parent objects)

### **What happens if both parents object to my visitation?**

If the child has two parents and the child is not dependent, neglected or abused in either parent's care, visitation may not be granted where both parents object.